

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LANA GARCIA, individually and
as Personal Representative of the
Estate of Ronald Lee Garcia, deceased,

Plaintiff,

v.

Case No. _____

UNITED STATES OF AMERICA,

Defendant.

COMPLAINT FOR WRONGFUL DEATH

COMES NOW the Plaintiff Lana Garcia, individually and as Personal Representative of the Estate of Ronald Lee Garcia, deceased, and for cause of action against the Defendant United States of America states:

1. Plaintiff is a resident of New Mexico.
2. This action is brought pursuant to 28 U.S.C. §1346(b) and 28 U.S.C. §2671 to §2680.
3. This claim has been properly presented to the appropriate federal agency which denied the claim. Thereafter a proper request for reconsideration was filed

which has not been ruled upon even though more than a year has passed since the request for reconsideration.

4. Jurisdiction and venue are proper in this Court.

5. The United States of America is an appropriate Defendant as the acts and omissions complained of were negligent actions and omissions of the United States Department of Veterans Affairs, hereafter referred to as the VA.

6. Lana Garcia is the widow of the deceased, Ronald Lee Garcia, and was appointed the Personal Representative of the Estate of Ronald Lee Garcia.

7. Ronald Lee Garcia received medical care through the VA Healthcare System at the VA Hospital/VA Medical Center in Albuquerque, New Mexico in 2014 and 2015.

8. On or about November, 2014, Ronald Lee Garcia was taken to the VA Hospital/VA Medical Center in Albuquerque for medical care and treatment.

9. From November, 2014 through February, 2015, Ronald Lee Garcia was treated as an in-patient and out-patient at the VA Hospital/VA Medical Center in Albuquerque, New Mexico owned and operated by Defendant.

10. At the VA Hospital/VA Medical Center, Ronald Lee Garcia was examined and treated by medical personnel who were employed by, and were actual and/or apparent agents of, Defendant acting within the course and scope of their employment and agency.

11. Ronald Lee Garcia was treated and/or under the care of the VA Hospital/VA Medical Center until his death on February 26, 2015.

12. Defendant failed to exercise ordinary care in the diagnosis and treatment of Ronald Lee Garcia and was otherwise negligent in the diagnosis and treatment of Ronald Lee Garcia resulting in injury to him and his wrongful death.

13. The negligence of Defendant includes, but is not limited to:

- a. failing to properly diagnose cancer and the physical condition of Ronald Lee Garcia;
- b. negligently diagnosing a condition for Ronald Lee Garcia that was incorrect;
- c. continuing its failure to properly diagnose and treat Ronald Lee Garcia on multiple occasions during his care and treatment;
- d. failing to have sufficient, adequately trained personnel, to render an appropriate diagnosis and treatment;
- e. failing to properly diagnose and treat Ronald Lee Garcia so as to allow him a chance to survive a cancer condition that developed;
- f. failing to provide, or tell the patient to seek, care from a doctor with other qualifications; and
- g. otherwise failing to exercise ordinary care in the care, treatment, and diagnosis of Ronald Lee Garcia.

14. Defendant, through its agents and employees, was negligent in the diagnosis, care and treatment of Ronald Lee Garcia and that lack of appropriate care resulted in the death of Ronald Lee Garcia.

15. In treating, diagnosing, misdiagnosing and caring for Ronald Lee Garcia, Defendant, through its doctors and medical personnel, failed to possess and apply the knowledge and to use the skill and care ordinarily used by reasonably well qualified doctors and other health care providers practicing under similar circumstances.

16. Defendant is liable for the acts and omissions of its employees and agents who were acting within the scope or course of their employment/agency.

17. The negligence of Defendant was a proximate cause of Ronald Lee Garcia's wrongful death.

18. As a result of the wrongful death, damages have occurred including, but not limited to:

- a. economic loss because of the wrongful death including lost earnings, loss of earning capacity and loss of household services;
- b. the value of decedent's life;
- c. the pain and suffering of the deceased;
- d. the emotional distress to decedent's spouse caused by decedent's death;
- e. the aggravating circumstances attending the wrongful acts;
- f. the loss to beneficiaries of other expected benefits; and
- g. the reasonable expenses of funeral and burial.

WHEREFORE Plaintiff Lana Garcia, individually and as Personal Representative of the Estate of Ronald Lee Garcia, deceased, prays for judgment against the Defendant United States of America in the sum of \$5,000,000, together with interest, costs, and such other relief and amount as the Court deems just.

/S/ JANET SANTILLANES

JANET SANTILLANES (CAID # 79/021)
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and

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